

UTAH AIR QUALITY BOARD MEETING
June 5, 2013 – 1:30 p.m.
195 North 1950 West, Room 1015
Salt Lake City, Utah 84116

FINAL MINUTES

I. Call-to-Order

Steve Sands called the meeting to order at 1:30 p.m.

Board members present: Kathy Van Dame, Steve Sands, Kerry Kelly, Karma Thomson, Tammie Lucero, Michael Smith, Robert Paine, and Craig Petersen (attendance by phone).

Excused: Amanda Smith

Executive Secretary: Bryce Bird

II. Date of the Next Air Quality Board Meeting: July 3, 2013

III. Approval of the Minutes for May 1, 2013, Board Meeting.

- Kathy Van Dame moved to approve the minutes as written. Kerry Kelly seconded. The Board approved unanimously.

IV. Final Adoption: New Rule R307-342. Adhesives and Sealants. Presented by Mark Berger.

Mark Berger, Environmental Planning Consultant at DAQ, stated that on February 6, 2013, the Board proposed for public comment R307-342 which establishes volatile organic compound (VOC) limits for several adhesives and sealants that are supplied and sold within Utah's PM_{2.5} nonattainment areas. A 30-day public comment period was held from March 1 to April 1, 2013, and a public hearing was held on March 13, 2013. Several comments from industry were submitted during the public comment period and no comments were made during the hearing. In response to comments received, several changes to the proposed rule were made. Those changes included adding an exemption for military operations where Department of Defense military technical data is specifically required, adding an exemption for users that use less than 55 gallons per rolling 12-month period, and adding an exemption for primers that are dispensed from aerosol spray cans. Additional changes based on stakeholder input gives sellers and users time to cycle through their existing product that was manufactured prior to September 1, 2014, which is the date the manufacturers are required to begin manufacturing products with the new VOC content limit specifications. Also, the polyester bonding putties exemption was added back into the rule because it was inadvertently removed. Staff recommends the Board adopt R307-342, Adhesives and Sealants, as amended.

- Kathy Van Dame moved that the Board finalize R307-342, Adhesives and Sealants, as explained. Kerry Kelly seconded. The Board approved unanimously.

V. Final Adoption: New Rule R307-357. Consumer Products. Presented by Mark Berger.

Mark Berger, Environmental Planning Consultant at DAQ, stated that on February 6, 2013, the Board proposed for public comment R307-357, Consumer Products. A 30-day comment period was held from March 1 to April 1, 2013, and a public hearing was held on March 13, 2013. Several written comments were received during the public comment period and one verbal comment was made during the hearing. The majority of comments from trade associations, industry, and community organizations provided recommendations to clarify intent and meaning of the rule, but were generally in favor of the rule. Comments were also received opposing the rule's regulation of VOC content of hairsprays. After staff analysis it was determined that emissions from hairspray contributed approximately 830 tons per year of VOC in Utah's nonattainment areas, therefore an exemption for hairspray with a 80% VOC content is not warranted. Changes to the rule were primarily to add improved definitions of terms used throughout the rule and some nonsubstantive changes. Finally, some typographical errors in the memorandum and formatting corrections to the rule will be made in the Department of Administrative Rules' form for publication in the Bulletin. Staff recommends the Board adopt R307-357 as amended. In discussion with the Board, concern was mentioned about how this rule would affect recycling and re-use of the listed ozone-depleting compounds.

- Craig Petersen moved that the Board approve R307-357, Consumer Products. Kerry Kelly seconded. The Board approved unanimously.

VI. Propose for Public Comment: New Rule R307-361. Architectural Coatings. Presented by Mark Berger.

Mark Berger, Environmental Planning Consultant at DAQ, stated that architectural coatings account for a significant portion of the coatings category within area sources and it is estimated that architectural coatings emit approximately 4,081 tons of VOC per year. This rule is based off of a model rule developed in 2011 by the Ozone Transport Commission (OTC) establishing VOC content limits for many architectural coatings that are manufactured, offered for sale, supplied, and used within Utah's PM_{2.5} nonattainment areas. Exempt from the requirements of this rule are architectural coatings that are supplied, sold, offered for sale, or manufactured for use outside of the PM_{2.5} nonattainment counties, aerosol coating products, and architectural coatings that are sold in containers with a volume of one liter or less. This proposed rule outlines container labeling requirements, reporting requirements pertaining to the distribution and sale of architectural coatings, and the required test methods and the calculation of the VOC content of architectural coatings. It's proposed that persons subject to the rule must be in compliance by September 1, 2014. The EPA estimates that the OTC model rule would cost approximately \$6,628 per ton of VOC reduced. However, since much of the cost to implement the model rule has been realized in previous years as these products have started to be manufactured we estimate the cost to be substantially lower. Staff recommends the Board propose R307-361, Architectural Coatings, for public comment.

In discussion with the Board, there was concern about the applicability applying to, "any person who...applies...the application of any architectural coating..." and how this would apply to a residential person. It was explained that the intent is to have a uniform standard for all of the coatings within each category and this will apply to everyone. The rule will be predominantly enforced through manufacturers. If the word "applies" is

removed there are large industrial users who apply this and the rule would no longer apply to them. As far as a homeowner applying these materials it may just be an enforcement discretion issue. Also, there is the one liter or less exemption. It was suggested the public comment period may be the venue to further address this issue.

- Kerry Kelly moved that the Board propose new rule R307-361, Architectural Coatings, for public comment. Robert Paine seconded. The Board approved unanimously.

VII. Propose for Public Comment: Amend R307-214. National Emission Standards for Hazardous Air Pollutants. Presented by Mark Berger.

Mark Berger, Environmental Planning Consultant at DAQ, stated that this rule must be updated periodically to reflect changes to the National Emission Standards for Hazardous Air Pollutants (NESHAP) as published in Title 40 Code of Federal Regulations (CFR) Part 61 and Part 63. The amendments to this rule incorporate by reference the July 1, 2012, version of the 40 CFR Part 61 and Part 63. Staff recommends the Board propose for public comment R307-214, NESHAP.

- Karma Thomson moved that the Board propose the amended R307-214, National Emission Standards for Hazardous Air Pollutants, for public comment. Tammie Lucero seconded. The Board approved unanimously.

VIII. Amico-Klemp Penalty Recommended Approval. Presented by Jay Morris.

Jay Morris, Minor Compliance Section Manager at DAQ, explained that in 2009 DAQ conducted a compliance inspection of Amico-Klemp's metal manufacturing facility in Utah County. The source provided records showing they had exceeded their 12-month rolling VOC emission limit. A compliance advisory was issued to the company for the violation. A settlement was negotiated in which the company paid a portion of the penalty amount in cash and a portion was credited towards a supplemental environmental project allowing the company to implement an environmental management system to ensure compliance with all applicable environmental regulations. Inspections for minor sources are required once every five years by EPA. When violations are discovered during a compliance inspection, DAQ's targeting system will increase the frequency of these inspections. As a result of the 2009 violation Amico-Klemp was again targeted for inspection in 2012. During the 2012 inspection the company provided records again showing they had exceeded their 12-month rolling VOC emission limit 39 times since the 2009 inspection. As this is a repeat violation Amico-Klemp will be targeted for inspections even more frequently. The DAQ has negotiated a penalty of \$90,200 with Amico-Klemp to resolve 2012 violations. This penalty includes the amount credited to the company to implement the environmental management system that was part of the 2009 settlement. Of the \$90,200 half of the penalty will be paid in cash and half will be deferred for a two year period if no additional violations occur. A settlement agreement has been signed by the company and partial payment has been received. In an inadvertent oversight by Division staff we failed to bring the early settlement proposal to the Board for review in accordance with the newly effective statute. The negotiated settlement with Amico-Klemp was the only settlement in 2012 that included a recommended penalty over \$25,000 and it is the first settlement negotiated by the Director requiring a review by the Board since the statute became effective. Staff recommends the Board approve and uphold the Amico-Klemp settlement negotiated by the Director.

In discussion with the Board it was explained that EPA requires inspection of minor sources once every five years. As a result of violations in 2009 and 2012, Amico-Klemp will be inspected annually for several years until DAQ ensures they are back in compliance. In addition, Amico-Klemp has modified their approval order, reduced their emissions, and made changes in the VOC contents of the products they use. Current reports submitted by the company show they are in compliance with their permit.

- Kerry Kelly moved that the Board approve the Amico-Klemp Company recommended penalty. Kathy Van Dame seconded. The Board approved unanimously.

IX. Tier 3 Support Letter. Presented by Joe Thomas and Glade Sowards.

Glade Sowards, Environmental Scientist at DAQ, stated that after Healthy Environment Alliance (HEAL) of Utah's presentation to the Board in May 2013, the Board asked staff to evaluate EPA's Tier 3 Vehicle Emission and Fuel Standards Program and present a recommendation to the Board. Mr. Sowards gave a brief presentation to the Board, based on EPA's analyses for Tier 3, in which staff mentioned several key points of the program. Some of which are: motor vehicles are currently one of the largest sources of NO_x and VOC emissions in Utah; Utah is preempted from setting vehicle emissions standards; the program would reduce combined NO_x and VOC emissions by 80% on a fleet average basis and particulate emissions by 70% on a per-vehicle basis; the program addresses the vehicle and its fuel as an integrated system; and the program includes measures to mitigate the economic impacts of the low-sulfur gasoline component of Tier 3 on refiners, including an averaging, banking, and trading (ABT) program, hardship provisions, and flexibility for small volume refiners such as those that operate in Utah. Finally, cost per new vehicle would be \$134, based on EPA analyses, and less than one penny per gallon for fuel. Staff recommends the Board submit a comment letter in support of the proposed Tier 3 Program to EPA.

Public comment from Lee Peacock, President of the Utah Petroleum Association (UPA), was introduced. Mr. Peacock stated the petroleum industry has worked hard over the last decades to manufacture fuels that are cleaner burning and better for the environment. They have backed up that commitment by a substantial investment in equipment to manufacture these fuels. In the short term, Tier 3 regulations will have little impact on air quality in Utah. The regulations would not take effect until 2017 and Utah refineries qualify as small refiners and fall under the 75,000 barrel per day threshold. In addition, the ABT program will allow companies with multiple refineries around the country to implement substantial controls to over-comply on their larger refineries. The removal of sulfur from gasoline is an energy intensive process which will increase emissions in other areas. Finally, the cost of removing sulfur from gasoline is substantial resulting in the petroleum industry's estimated \$.06 to \$.09 per gallon impact to the gasoline consumer nationwide. On behalf of the UPA, Mr. Peacock urges the Board to use caution and take a more deliberate approach to submitting a letter of support to EPA which might prematurely put the Board on record as supporting a program in which the impacts are not fully known.

Discussion with the Board followed the staff presentation and public comment addressing questions and concerns of various aspects of the Tier 3 Program. Each Board member stated their preference on whether or not to submit a comment letter to EPA in support of the Tier 3 Program and the floor was opened for a motion.

- Robert Paine moved that the Board modify the draft letter to EPA in support of Tier 3 Emissions and Fuel Standards Program within two weeks. Once a majority of the Board agrees on the language in the letter, the Chair will sign the letter on behalf of the Board. Kathy Van Dame seconded. The motion carried to approve with a vote of six in favor (M. Smith, K. Van Dame, R. Paine, K. Kelly, S. Sands, and C. Petersen) and two opposed (T. Lucero, K. Thomson).

X. Informational Items.

A. PM_{2.5} State Implementation Plan Update and Discussion. Presented by Bill Reiss.

Bill Reiss, Environmental Engineer at DAQ, began with an explanation that Subpart 4 refers to a section of the Clean Air Act (CAA) pertaining to nonattainment areas and was written as a subsection to introduce additional provisions for PM₁₀. EPA had to choose whether to implement this new standard based on Subpart 1 or to introduce additional provision for PM_{2.5}, or Subpart 4. EPA chose the Subpart 1 path and in January 2013 the Court decided against that path. This meant that we should have been using Subpart 4 when working on our state implementation plans (SIPs) and implementing PM_{2.5} instead of Subpart 1. The issue is EPA's ability to designate our areas of nonattainment as moderate or serious and how some of the major changes will affect Utah's areas. EPA is expected to issue its revised implementation rule for PM_{2.5} by early next year and staff will update the Board as new information from EPA becomes available as to deadlines and milestones.

On the technical level for the current PM_{2.5} SIP, we are still looking for additional reductions in emission to get us beneath the line. Currently, there is a state statute that allows us to implement an employer-based trip reduction program to employers of 100 or more employees in which DAQ will introduce a stakeholder process to address this issue.

The contractor is finishing its work on the reasonable available control technology (RACT) analysis with regard to each of the large point sources in the area. DAQ is finalizing the draft report from the contractor and the feedback from the sources. In addition, staff has prepared some modeling analysis that will allow a look at what would be the most aggressive application of the report.

Mr. Reiss explained that in September 2012 a proposed rule that would apply to minor sources of PM_{2.5} was introduced and it wasn't fully developed at that time. DAQ has revised the rule and plans to introduce it in a stakeholder forum. The first of those meetings is scheduled June 20, 2013, at 1:30 p.m. in the DEQ board room.

Finally, in response to recent news attention, Mr. Reiss explained that Title V permits, or operating permits, are intended to consolidate all existing regulatory provisions that come from SIPs, federal rules, and approval orders issued by DAQ and not all significant sources in Utah have them. These permits don't add new limits or restrictions and are more for the ease of regulatory use to contain all the requirements in one place. Sources have made Title V application as required but the difficulty arises in the differences in some of the existing

conditions and trying to consolidate them into a permit becomes confusing and difficult for EPA. In addition, there has been disagreement over the years of interpretation on modification of emission limits for PM₁₀, SO₂, or NO_x through approval orders. Essentially, in 2005 when the PM₁₀ maintenance plan was written all the regulatory conditions that would have conflicted with the 1991 version of the SIP were removed and brought forward as SIP conditions for EPA to approve. Currently, the approval orders that have been approved since the 1994 SIP are federally enforceable permits.

B. Using Particle Composition and Source Signatures to Identify Contributors to PM_{2.5} in the Salt Lake City Airshed. Presented by Kerry Kelly.

Kerry Kelly presented results of a study her research with the University of Utah did in cooperation with EPA Region 10 and DAQ staff on using particle composition and source signatures to help figure out where particulate matter comes from during our wintertime inversions. She's looked at this from a different standpoint than the state inventory; source attribution uses the composition of filter samples collected at DAQ monitoring stations together with source signatures. She uses mathematical tools to get factor profiles, which tell you about the factor's composition and factor contributions, which tell how much that factor contributes to overall particulate matter. Using these factor profiles and contributions in a mathematical process helps her interpret the source of particulate matter. Focusing on the Salt Lake City area for her presentation she explained where the samples were taken, and she explained how she identified one source from one of the models. Her source attribution results show that wood burning is two or three times higher than what DAQ's inventory suggests. Ms. Kelly followed with some ideas on future work for improving our understanding of the contribution from wood smoke, including maybe using satellite data to see if it could improve counts of wood burning and evaluating the effect of recent rulemaking to see if additional SIP credit could be gained. In closing, some ideas for reducing PM_{2.5} levels from wood burning might be: improved education and outreach (i.e., potentially refine DAQ's Choose Clean Air website on fireplaces), improved community reporting, and incentives for reduced emissions from wood burning through local building codes.

C. Air Toxics. Presented by Robert Ford.

D. Compliance. Presented by Jay Morris and Harold Burge.

Harold Burge, Major Source Compliance Manager at DAQ, updated the Board that on December 27 and 28, 2011, Stericycle did routine stack testing in which they exceeded the dioxin furan and NO_x emission limits. On May 30, 2013, Stericycle received a notice of violation (NOV) from DAQ. According to the NOV they have 15 days to respond on their intent to comply. The NOV will become final 30 days from the date they received it, unless they request a hearing to contest any or all parts of the NOV.

E. Monitoring. Presented by Bo Call.

Bo Call updated the Board on monitoring graphs and charts.

F. Other Items to be Brought Before the Board.

As follow-up discussion, the Board decided to hold a telephone conference call to modify the draft letter of support to EPA on the Tier 3 Program on Monday, June 10, 2013, at 4:00 p.m. Once modifications are made to the letter, another draft will be circulated to the Board and a telephone conference call meeting will be scheduled to approve a final letter, if a majority of Board members agree.

Bryce Bird informed the Board that Amanda Smith has been asked to appear before the Environment Subcommittee of the Science and Technology Committee of the House in Washington, D.C. on June 12, 2013, at 10:00 a.m. EST.

It was also mentioned that on June 11, 2013, Governor Herbert will launch the state's air quality improvement campaign, Utah Clean Air Partnership (UCAIR), into an independent, nonprofit organization. The event will be held at the UTA TRAX Fairbourne Station Plaza in West Valley City at 1:30 p.m.

Meeting was adjourned at 4:14 p.m.

Minutes approved: July 3, 2013